

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**ELECTRONIC PRIVACY INFORMATION CENTER**

1718 Connecticut Avenue, N.W.

Suite 200

Washington, DC 20009,

Plaintiff,

v.

**DEPARTMENT OF JUSTICE**

950 Pennsylvania Avenue, N.W.

Washington DC 20530,

Defendant.

Civil Action

**COMPLAINT FOR INJUNCTIVE RELIEF**

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, for injunctive and other appropriate relief, and seeking the expedited processing and release of agency records requested by the Electronic Privacy Information Center from the Federal Bureau of Investigation.

**Jurisdiction and Venue**

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(E)(iii). This court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

### **Parties**

3. Plaintiff Electronic Privacy Information Center (“EPIC”) is a public interest research organization incorporated as a not-for-profit corporation in Washington, DC. EPIC's activities include the review of federal law enforcement activities and policies to determine their possible impacts on civil liberties and privacy interests. Among its other activities, EPIC publishes books, reports and a bi-weekly electronic newsletter. EPIC also maintains a heavily visited site on the World Wide Web ([www.epic.org](http://www.epic.org)) containing extensive information on privacy issues, including information EPIC has obtained from federal agencies under the FOIA.

4. Defendant Department of Justice (“DOJ”) is a Department of the Executive Branch of the United States Government. DOJ’s components include the Federal Bureau of Investigation (“FBI”). DOJ is an agency within the meaning of 5 U.S.C. § 552(f).

### **The Sunset Provisions of the USA PATRIOT Act**

5. The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (“USA PATRIOT Act”) was signed into law on October 26, 2001. The sweeping law, which amended numerous federal statutes, was marked by its lack of debate and quick passage just six weeks after the September 11, 2001 terrorist attacks.

6. Prior to the passage of the law, members of Congress expressed concern about the extent to which the Foreign Intelligence Surveillance Act (“FISA”) was expanded by the PATRIOT Act. As a result, Congress included a “sunset” provision in the USA PATRIOT Act so that lawmakers could revisit the necessity for expanded FISA powers at a later, less chaotic time. The sunset provision specifies that many of the law’s most

controversial provisions will become ineffective on December 31, 2005 without further action by Congress.

7. The urgency for Congress and the public to know how the FBI has used these sunseting authorities is particularly strong now, as congressional committees are conducting numerous PATRIOT Act oversight hearings in April and May 2005, and will determine whether to reauthorize the sunseting provisions of the USA PATRIOT Act before December 31, 2005.

**Plaintiff's FOIA Request for Information Concerning the FBI's Use of  
Sunsetting USA PATRIOT Act Powers**

8. On March 29, 2005, plaintiff wrote to the FBI and requested under the FOIA the following agency records:

- a) Any information concerning the FBI's use of authorities granted or expanded by Sections 201, 202, 203(b), 203(d), 204, 206, 207, 209, 212, 214, 217, 218, and 220 of the USA PATRIOT Act from October 26, 2001 to the present.
- b) Any information concerning the FBI's use of Section 215 of the USA PATRIOT Act from February 23, 2003 to the present;
- c) Any information or communications concerning sunset of USA PATRIOT Act provisions.

9. Plaintiff requested that the processing of its FOIA request be expedited pursuant to 5 U.S.C. § 552(a)(6)(E), noting the public interest in how the FBI has used expanded law enforcement powers granted by the USA PATRIOT Act.

10. By letter dated April 12, 2005, the FBI granted expedited processing of plaintiff's request.

11. To date, the agency has not issued a final determination on plaintiff's FOIA request.

**Causes of Action**

**Count I: The FBI has Violated the FOIA by  
Failing to Expedite the Processing of Plaintiff's Request**

12. Plaintiff realleges the allegations contained in ¶¶ 1-11.

13. Notwithstanding the FBI's recognition of plaintiff's right to expedited processing, the agency has failed to comply with the statutory expedited processing provision contained in 5 U.S.C. § 552(a)(6)(E) with respect to plaintiff's March 29, 2005 FOIA request. To date, the FBI has not completed the processing of plaintiff's request.

14. Plaintiff has exhausted the applicable administrative remedies with respect to the above-referenced request for expedited processing.

15. Plaintiff is entitled to injunctive relief with respect to the expedited processing of the requested documents.

**Count II: The FBI has Violated the FOIA by Failing to  
Complete Its Processing of Plaintiff's March 29, 2005 Request**

16. Plaintiff realleges the allegations contained in ¶¶ 1-11.

17. The FBI has failed to comply with the statutory time limits contained in 5 U.S.C. § 552(a)(6)(A) with respect to plaintiff's March 29, 2005 FOIA request. To date, the FBI has not completed the processing of plaintiff's request.

18. Plaintiff has exhausted the applicable administrative remedies with respect to the above-referenced request.

19. The FBI has wrongfully withheld responsive agency records from plaintiff.

20. Plaintiff is entitled to injunctive relief with respect to the release and disclosure of the requested documents.

**Requested Relief**

WHEREFORE, plaintiff prays that this Court:

- A. order the defendant DOJ and its component FBI to expedite the processing of plaintiff's FOIA request;
- B. establish a date certain for the FBI to complete processing of responsive documents;
- C. establish a date certain by which defendant DOJ will file a *Vaughn* index;
- D. establish a date certain for submission of defendant DOJ's dispositive motion on the merits;
- E. provide for expeditious proceedings in this action;
- D. award plaintiff its costs and reasonable attorneys fees incurred in this action; and
- E. grant such other relief as the Court may deem just and proper.

Respectfully submitted,

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